

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

Brodrick Rhodes,

Plaintiff,

V.

Receivables Performance Management, L.L.C.,

Defendant.

Civil Action No.: 3:17-cv-428

COMPLAINT

For this Complaint, Plaintiff, Brodrick Rhodes, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant’s repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the “TCPA”).

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Brodrick Rhodes (“Plaintiff”), is an adult individual residing in Dallas, Texas, and is a “person” as the term is defined by 47 U.S.C. § 153(39).

4. Defendant Receivables Performance Management, L.L.C. (“RPM”), is a Washington business entity with an address of 20816 44th Avenue, West Lynnwood, Washington 98036, and is a “person” as the term is defined by 47 U.S.C. § 153(39).

FACTS

5. In 2016, RPM began calling Plaintiff's cellular telephone, number 469-XXX-4097, using an automatic telephone dialing system ("ATDS" or "predictive dialer") and using an artificial or prerecorded voice.

6. When he answered calls from RPM, Plaintiff heard a prerecorded message which instructed him to hold for the next available representative.

7. In or around July or August 2016, Plaintiff waited on the line to speak with a live representative.

8. At that time, Plaintiff demanded that RPM cease all calls to his cellular telephone number.

9. Nevertheless, RPM continued to place automated calls to Plaintiff's cellular telephone number.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

10. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

11. At all times mentioned herein, Defendant called Plaintiff's cellular telephone number using an ATDS or predictive dialer and/or using a prerecorded or artificial voice.

12. Defendant continued to place automated calls to Plaintiff's cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

13. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

14. Plaintiff was annoyed, harassed, and inconvenienced by the continued calls.

15. The calls from Defendant to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

17. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: February 14, 2017

Respectfully submitted,

By /s/ Jenny DeFrancisco

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